

## **MINUTES**

### **JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES**

**March 6, 2007 and March 7, 2007  
Room 643, Legislative Office Building**

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met briefly on Tuesday, March 6, 2007, and concluded on March 7, 2007 in Room 643 of the Legislative Office Building. Members present were Senator Martin Nesbitt, Co-Chair; Representative Verla Insko, Co-Chair; Senators Austin Allran, Charlie Dannelly, Vernon Malone, and William Purcell and Representatives Martha Alexander, Jeff Barnhart, Beverly Earle, Bob England, Carolyn Justice, and Fred Steen. Advisory member, Representatives Jean Farmer-Butterfield was present.

Kory Goldsmith, Shawn Parker, Andrea Russo-Poole, Natalie Towns and Rennie Hobby provided staff support to the meeting. Attached is the Visitor Registration Sheet that is made a part of the minutes. (See Attachment No. 1)

Representative Verla Insko, Co-Chair, called the meeting to order at 6:00 PM, welcoming members and guests. She said that with the bill filing deadline approaching, the only item on the agenda today was to approve the final report to the General Assembly in order that bills could be introduced. Senator Nesbitt stated that bills could be better defined as the session progressed. He said the report was the result of input members, from the Department of Health and Human Services, and the Division on MHDDSAS.

Representative Insko stated that the report contained the minutes from the LOC meetings; a summary of findings; and draft proposals for three legislative bills – an Appropriations bill, a fee bill, and a policy bill. (See Attachment No. 20) She emphasized that the bills were a package and were tied together.

Staff briefly reviewed findings which provided a background for the bills. Andrea Russo-Poole, Fiscal Research, stated that the General Assembly appropriated \$95.8 million last year in additional funding for MH/DD/SA related items. Ms. Russo-Poole and Kory Goldsmith, Research Division, then gave a brief overview of the subject areas of the findings beginning on page 16 of the report.

Representative Insko suggested that when the report was approved, allowances should be made for any typographical errors and incorrect references that may need to be corrected. Senator Nesbitt stated that in some cases additional funds had been requested. He said for instance that substance abuse was under funded but dollars were being reverted, but we could not wait to see how the money would be spent when we know more is needed. He said the request from the LOC was larger than what would probably be received, but the need had to be demonstrated.

Staff then reviewed each bill beginning with *Build Community Infrastructure – MH/DD/SA* on page 34 of the report. Representative Insko wanted to assure everyone that the LOC was aware of the needs of all of the disabilities groups, but that the crisis in the communities had to be addressed. She stated that there was concern in the communities over the number of people with mental illness and substance abuse issues in our jails, the overflow in hospital emergency rooms with the same populations, and that people continue to circulate in and out of mental institutions. Sections under this bill included: Increase availability of substance abuse treatment; Additional housing assistance; Crisis and acute care services; Assistance to law enforcement; Use of Mental Health Trust Fund; Strengthen the services network; Filling service gaps; and LME Administrative funding. During the discussion on substance abuse, a question arose concerning funding getting to the LMEs faster for services. Representative Insko said that the Institute of Medicine was interested in doing a major study on the substance abuse system. She also said that the committee applied for and was awarded a technical assistance grant from the National Conference of State Legislatures for a study of substance abuse services. Senator Nesbitt said that GPAC was also going to do a study.

Under the section on Crisis Services, it was noted that the LMEs were in the process of submitting their business plans for the one-time money for Crisis Services to DHHS. There is no way to determine how much is needed at this time and indications are that funds provided last year were a down payment and do not cover the statewide need. Therefore, the funding requested in the report is in anticipation of that need. A member asked if an LME wishing to participate in the utilization pilot program would have their business plan approved for that use. Representative Insko responded that crisis services would already be available in the community, such as a mobile crisis team, unlicensed crisis centers and licensed crisis beds which can take involuntary commitments. Currently, there are no incentives in place to not send people to hospitals. It was anticipated that the LME would be qualified and an assessment would be done to ensure the LME was qualified to run the program based on capacity. She said that turning in a plan would certainly be another way to see that the LME was qualified. It was noted that half of the LMEs have contracts with local hospitals.

Due to the late hour, Representative Insko recessed the meeting at 6:55 PM to reconvene March 7<sup>th</sup> at 10:00 AM.

### **March 7, 2007**

On March 7, 2007, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services reconvened at 10:00 A.M. in Room 643 of the Legislative Office Building. Members present were Senator Martin Nesbitt, Co-Chair; Representative Verla Insko, Co-Chair; Senators Austin Allran, Charlie Dannelly, Vernon Malone, and William Purcell and Representatives Martha Alexander, Jeff Barnhart, Beverly Earle, Bob England, Carolyn Justice, and Fred Steen. Advisory member, Representative Jean Farmer-Butterfield was present.

Senator Martin Nesbitt called the meeting to order. He announced that the committee reviewed about half of the report the night before and that if anyone needed any information regarding the report to ask staff. He reminded members that many of the proposals in the report still needed work, but that there would be time to critique the bills over the next two months.

Staff continued reviewing the sections on the bill entitled *Build Community Infrastructure – MH/DD/SA*. While discussing services for the Developmentally Disabled, Leza Wainwright, Deputy Director of the Division on MHDDSA, gave an explanation to the CAP-MR/DD waiver. Under the waiver the federal government considers the recipients eligibility outside of normal Medicaid rules that would deem the income of the parents attributable to the child. She said that a recipient under the CAP-MR/DD waiver can have their financial eligibility determined as though they were a family of one. She was asked if there could legally be a co-pay under the waiver. Ms. Wainwright answered that it would not be possible under the current waiver. She said it would require an amendment, and that would be deemed a substantive amendment by the Federal Centers for Medicare and Medicaid Services. It could not be done through the relatively expedited process of a technical amendment, but would require a full blown change to the waiver which is why the change is being considered next year when the waiver is due for renewal. The waiver renewal would become effective September 1, 2008. One additional point she included, was that individuals on the CAP waiver are also eligible for the full array of Medicaid services.

Staff reviewed legislative Proposal Number 2, *Uniform Sliding Fees*, which directs the Department to create a uniform sliding fee schedule. An existing law requires LMEs to establish a fee schedule for consumers who are able to share in the cost of services; this bill would make that fee consistent across the State. The bill also directs the Secretary to adopt rules to implement the schedule, and directs the Secretary to identify all services that are funded by or through the Departments budget and that do not require income-based criteria in order for an individual to be eligible to receive the service. The Secretary shall also develop a proposal for implementing income-based criteria for eligibility for those programs, and shall submit the proposal by November 1, 2007 to the General Assembly. Ms. Goldsmith said that the bill would be a stand alone bill due to the fact it would have to go to the Finance Committee.

The final bill, *Extend Pilot/Clarify LME Functions – MHDDSA*, is a policy bill. The first provision relates to the First Commitment Pilot Program and extends the due date of a report to the LOC to October 1, 2009 on data gathered from the LMEs since the pilot began. The pilot would expire on October 1, 2010. The bill also extends the scope of the waiver from 5 to 10 LMEs. Section two, clarifies that only LMEs can conduct core functions unless the LME contracts the function to a third party.

The meeting recessed at 10:55 AM to reconvene at 1:00 PM.

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services reconvened at 1:00 P.M. in Room 643. The Committee

reviewed, discussed, and voted favorably for the amendments to the report. (See Attachments No. 3 -10) Representative Farmer-Butterfield requested that it be noted for the record that as an advisory member she would not be voting.

The meeting recessed at 2:00 PM to reconvene after Session.

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services reconvened at 5:05 P.M. in Room 643. Senator Nesbitt asked staff to explain the final amendment to the report which was adopted. Staff said the final appropriation to build community infrastructure was \$116 million for 2007-08 and \$116 million for 2008-09. Ms. Russo-Poole said that figures did not include the increased funding in the amendments.

Senator Nesbitt reiterated that the report was a work in progress. He said that there was enough time as new information came in to make changes as they are needed. He said that the report had solid recommendations and built on recommendations the Committee made last year. Senator Nesbitt recognized that the appropriation requested was not nearly enough but it was a start.

Senator Nesbitt asked for a motion to approve the report. Representative Earle made the motion and the report was approved.

There being no further business, the meeting adjourned at 5:35 PM.

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Senator Martin Nesbitt, Co-Chair

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Representative Verla Insko, Co-Chair

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Rennie Hobby, Committee Assistant